IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 3627 of 1995

Between:

Yamuna Digital & Electronics Pvt Ltd, Banjara Hills,
Hyderabad Rep. by its Director

..... PETITIONER

AND

1 S. Satyanarayana, S/o. Bhupathi Rao,
H.No.8-2-682/32/176, H.P.Nagar, Road No.12.
Banjara Hills, Hyderabad.
2 The Labour Court-I Chandravihar Building,
M.J. Road, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Order or Direction or a Writ more particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the second respondent in MP No.283/93, dated 23.12.1994 and quash the same and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.RAVINDRANATH

Counsel for the Respondent No.: MR.V.VISWANATHAM & Mr.G.Ravimohan

The Court made the following :

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.3627 of 1995

JUDGMENT:

This writ petition is filed against the order of the Labour Court-I, Hyderabad in M.P.No.283 of 1993 dated 23-12-1994.

The 1st respondent in the writ petition filed an application under Section 33(c)(2) of the Industrial Disputes Act, 1947 claiming a sum of Rs.12,906/- towards notice pay of one month of Rs.1,601/-, retrenchment compensation of Rs.8,005/-, and bonus for the years 1988-89, 1989-90 and 1990-91 of Rs.3,300/-.

The facts as referred to in the order of the Labour Court are that the 1st respondent, was appointed in the petitioner's company as an Electro Plater on a monthly pay of Rs.500/- with 25% thereof as House Rent Allowance. At the time of his termination he was drawing a sum of Rs.1,601/- per month including House Rent Allowance at 25% thereof. It was the case of the 1st respondent before the Labour Curt that on 19-12-1990 his services were terminated without any reason and that no notice pay or retrenchment compensation was paid to him before termination of his services. The case of the petitioner-company before the Labour Court was that the 1st respondent absconded from duty without resignation or without handing over charge, that it was not a case of termination from service nor did it come within the definition of Section 2(oo) of the Industrial Disputes Act,1947 and as such compliance with the provisions of Section 25-F of the Industrial Disputes Act did not arise. The petitioner-company also contended before the Labour Court that the 1st respondent herein was not a workman within the definition of Section 2(s) of the Industrial Disputes Act and as such the application was liable to be rejected. It was their case that the 1st respondent had abandoned his service abruptly from 19-12-1990 when he was working as a Senior Manager (Printed Circuit Board) and that before he abandoned service, he was supervising the work of four employees and that he was in charge of Printed Circuit Board Section. It was also contended by the petitioner company, before the Labour Court that proceedings under Section 33(c)

(2) of the Industrial Disputes Act in are the nature of execution proceedings and that the rights of parties could not be adjudicated therein.

The 1st respondent examined himself as W.W.1 and through him Ex.A-1 (appointment letter) was marked as an exhibit. On behalf of the petitioner – company, its Director was examined as M.W.1 and Exs.M-1 to M-3 were marked as exhibits.

The Labour Court held that the 1st respondent was a workman, was entitled for salary and bonus and on his termination was entitled to certain other benefits and as such he had a right to file an application under Section 33(c) (2) of the Industrial Disputes Act for payment of bonus, wages and other benefits due to him. The Labour Court also held that the petitioner-company did not produce any record to show that the respondent was working as a Senior Manager having the power to supervise other workers and therefore it has necessarily to be concluded that the petitioner had no supervisory powers and was a 'workman' under the provisions of the Industrial Disputes Act. The Labour Court disbelieved the contention of the petitioner that the services of the 1st respondent were not terminated and that the 1st respondent had abruptly left the services of the company on 19-12-1990. The Labour Court held that inasmuch no notice was issued by the petitioner company to the 1st respondent for his alleged absence from duty from 19-12-1990, no charge sheet was issued to him and no enquiry was held for his unauthorized absence, it could not be concluded that the 1st respondent had himself voluntarily abandoned duty from 19-12-1990. The Labour Court held that the 1st respondent's services were terminated orally without assigning any reasons and as such the 1st respondent was entitled to one month's notice pay which comes to Rs.1601/-. Since the 1st respondent had worked for 9 year four months the Labour Court held that he was entitled for service compensation for 135 days and as such the Labour Court awarded a sum of Rs.7,205/- towards retrenchment compensation (service compensation). The Labour Court held that the 1st respondent was entitled for bonus of Rs.567/- for the years 1988-89, Rs.1200/- for the years 1989-90 and Rs.650/- for the years 1990-91 i.e., for a total sum of Rs.2,417/- towards bonus. The Labour Court directed payment of Rs.11,223/- (Rs.2,417/- towards bonus, Rs.7,205/- towards service compensation, and Rs.1601/- towards one month's salary) to be paid to the 1st respondent on or before 23-1-1995 failing which the 1st respondent

was held as being entitled to interest at 12% per annum till payment of the said amount.

The only contention raised before this Court by Sri S.Ravindernath learned counsel for the petitioner, is that voluntary abandonment from service by a workman does not fall within the definition of 'retrenchment' under the Industrial Disputes Act and in case of voluntary abandonment from service the question of compliance with Section 25 F of the Industrial Disputes Act does not arise.

While this contention may require examination in an appropriate case, in the light of the findings of the Labour Court in the present case, that the 1st respondent had not voluntarily abandoned service, this question does not require further examination. The Labour Court held that no notice was issued to the 1st respondent for his alleged absence from duty from 19-12-1990, no charges were framed against him for such absence and no enquiry was conducted for the illegal absence and as such it could not be concluded that the 1st respondent had himself voluntarily abandoned service from 19-12-1990 and that it had to be concluded that the 1st respondent was terminated orally without assigning any reasons. In the light of these findings of the Labour Court, the contention of the learned counsel for the petitioner that the 1st respondent had voluntarily abandoned his job cannot be accepted. The order of the Labour Court directing payment of notice pay, retrenchment compensation and bonus, in the facts of the present case, is legal, valid and does not call for any interference from this Court.

The writ petition fails and is accordingly dismissed. No order as to costs.

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-06-2005

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To:

1. The Presiding Officer, Labour Court-I Chandravihar Building,
   M.J. Road, Hyderabad.

2. Two C.D. copies

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.3627 of 1995

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